

FINAL MINUTES
Massachusetts Oil Spill Prevention and Response Act Advisory Committee
Tuesday, March 27, 2007
Whaling Museum, New Bedford, MA

Participants:

Arleen O'Donnell, MassDEP	Lt. Chris Gagnon, USCG Boston
Janine Commerford, MassDEP	Scott Lundgren, USCG Boston
Rich Packard, MassDEP	Ed LeBlanc, USCG Sector Southeastern NE
Bill Harkins, MassDEP	Ron Pigeon, USCG Sector Southeastern NE
Millie Garcia-Serrano, MassDEP	LCDR Claudia Gelzer, USCG Sector Boston
Bob Murphy, MassDEP	Larry Davis, USACE
Dan Crafton, MassDEP	Tim Rodrique, Mass. Dept. of Fire Serv.
David Janik, Mass EOEA	Elise De Cola, Nuka Research
Gordon Bullard, Mass Dept. of Revenue	Jim Scalli, Shell Trading
Dave Fronzuto, Mass Harbormasters	Steve Tucker, Cape Cod Commission
Steve Dodge, MA Petroleum Council	Mark Rasmussen, Coalition for Buzzards Bay
Tom Gallant, MSRC	Kirk Franklin, Frank Corp., OSRO
Steve Lehmann, NOAA	Bill Cass, NEWMOA
Capt. Gregg Farmer, Boston Pilots	Rachel Colella, NEWMOA

Introduction

Arleen O'Donnell, Acting Commissioner, Massachusetts Department of Environmental Protection (MassDEP) opened the meeting with introductions and a summary of the Oil Spill Prevention and Response Act (the Act). She outlined her views on the role of the Advisory Committee and what MassDEP hopes to accomplish with the Committee's help. She next reported that, since the Oil Spill Act was passed in 2004, the Oil Spill Trust Fund has accrued more than \$3 million dollars for oil spill prevention and response. In the period since enactment, MassDEP has implemented financial management provisions for the Fund, provided oil spill response training and equipment trailers for eleven (11) communities in Buzzards Bay, and engaged a number of contractors to assist with the next phase of implementing the Act. She emphasized that MassDEP is committed to developing a comprehensive plan within the next six (6) months that will establish priorities for equipment, training, and other activities, along with a timeline for implementation. Finally, she thanked the participants for serving on the Committee and for sharing their expertise with MassDEP.

In response to questions, Ms. O'Donnell acknowledged that legal issues regarding certain provisions of the Act had arisen between the Commonwealth and the Coast Guard. She explained that the Coast Guard had challenged the State's authority to enforce requirements such as double-hulled tank vessels and tug escorts in sensitive areas of the Massachusetts coast. She added that MassDEP had been working closely with the Attorney General's office, and with other states that have signed on in support of the State's legal position, in an effort to reverse an earlier court decision denying the State's

authorities. She emphasized, however, that the ongoing legal issues did not affect most of the Act's provisions.

Provisions of the Oil Spill Act

Trust Fund

Janine Commerford, Assistant Commissioner, MassDEP, spoke about the specific provisions of the Oil Spill Act (The Act/OSA). She explained that the OSA Trust Fund (described in Chapter 21 M of the Act) is financed by a 2¢ surcharge on each barrel of petroleum entering a marine terminal. The money is then sent to the Massachusetts Department of Revenue. There is currently \$3-4 million dollars in the fund (no more than \$10 million can be accrued) available for oil spill prevention and response actions in Massachusetts. Ms. Commerford stressed that this money can be used for a variety of purposes, including: cleanup, site analysis and characterization, emergency loans, natural resource damage restoration, response training, equipment, drills and exercises, vessel navigation systems, research and development, and administrative expenses. The reserve in the Trust Fund allows coastal communities, agencies and private entities to apply for money to cover damages or losses from a spill if no primary responsible party (PRP) can be found.

Areas of Special Interest

Ms. Commerford also stated that a major provision of the Act allows the Secretary of the Executive Office of Environmental and Energy Affairs (formerly Executive Office of Environmental Affairs) to formulate specific requirements for "areas of special interest" (e.g. Buzzards Bay), that are considered critical environmental areas, or areas that have a special geographic feature, navigational hazard, or natural resource. This amendment (Section 50 of the Act) grants special authority to the Secretary to protect these areas more specifically. However, Ms. Commerford noted that the Act in general, including availability of funding for the purposes described above, applies to all coastal areas and is not limited to these areas of special interest.

Activities to Date

Rich Packard, Oil Spill Preparedness Program Manager at MassDEP, reviewed some of the activities that have been funded by the OSA Trust Fund. Since 2004, MassDEP has provided spill response equipment to local communities; including fourteen (14) spill trailers for the towns surrounding Buzzards Bay. In 2005, MassDEP conducted a spill response exercise in Dartmouth.

In 2005 and 2006, MassDEP evaluated the vessel tracking system (VTS) currently in place and concluded that it meets the requirements of the OSA. However, Ms. Commerford noted that this does not mean that improvements to this system or additional systems cannot be funded through the OSA Trust Fund. Mr. Packard stated that MassDEP is working with the US Army Corp of Engineers (USACOE) to evaluate the use and need for automated information systems (AIS), which would be an enhancement of the current VTS system.

MassDEP is also continuing to make improvements to its website and has created a link that has specific information for the Oil Spill Prevention and Response Act Advisory Committee (i.e. meetings dates, agendas, etc). Mr. Packard stated that MassDEP has been working closely with the USCG Sector Southeastern Massachusetts and Sector Boston area planning committees, which consist of federal, state and local agency officials and other stakeholders from the marine community. He noted that there is an opportunity to blend resources because members in these committees overlap with the Advisory Committee.

Budget

Ms. Commerford reported that MassDEP started collecting money for the OSA Trust Fund in 2004, accruing approximately \$1.5 million each year. The first year of the project (FY '05), approximately \$80,000 was used to finance the spill exercise in Dartmouth and the purchase of the first spill response trailer. In FY '06, MassDEP purchased additional spill response trailers and equipment for the Buzzards Bay communities (approximately \$390,000). So far for FY '07, MassDEP has \$760,000 committed for planned activities and has spent approximately \$78,000 on administrative expenses. That leaves approximately \$3 million dollars currently available in the Trust Fund for other activities. Ms. Commerford stressed that one primary objective for the Advisory Committee is to help develop a spending plan for these funds and decide on an amount to keep in the Trust Fund as a reserve.

Future Plans and Activities

Spill Response Trailers and Equipment

Mr. Dave Fronzuto, President of the Massachusetts Harbormaster's Association, expressed the need to provide spill response trailers for Cape Cod Bay and Nantucket Sound. Mr. Packard responded that MassDEP is planning to secure trailers for these communities in the coming months. He stated that there is currently a Request for Proposals (RFP) out to purchase twenty-one (21) spill response equipment trailers – nineteen (19) of these trailers will be designated for Cape Cod and the Islands communities and the other two (2) will be kept at MassDEP's Northeast and Southeast regional offices. He noted that because the spill response trailers are owned by MassDEP and are not limited for use by a particular town, they could be used to assist other communities. Mr. Mark Rasmussen, Coalition for Buzzards Bay, agreed that MassDEP should specify "mutual aid agreements" for these state assets (i.e. trailers).

Capt. Gregg Farmer, Boston Pilots, suggested that MassDEP not automatically focus on Cape Cod. He suggested that MassDEP first conduct an inventory of all the coastal communities to decide which areas are most in need of new equipment or are most vulnerable to a potential spill. He observed that Cape Cod does not have a lot of ship or barge traffic and therefore isn't as susceptible to a major oil spill as some other locations. However, Mr. Fronzuto commented that all of the Islands receive their fuel by barge and, therefore, there is a definite potential for an oil spill in these areas. Mr. Steve Tucker,

Cape Cod Commission, noted that Cape Cod does not have the necessary resources for even a modest spill.

Mr. Larry Davis, US Army Corp of Engineers (US ACOE) recommended that MassDEP also look at transportation records when identifying priority areas. He noted that a lot of the fuel that comes through the canal on barges is not necessarily bound for Massachusetts, but that it could still result in an oil spill. Mr. Packard responded that MassDEP did look at some of these records as part of the program evaluation and that is why they initially focused on Buzzards Bay – other areas with a lot of barge traffic include Gloucester and Nantucket Sound. Mr. Steve Dodge, Massachusetts Petroleum Council, noted that Chelsea Creek, Everett, and New Bedford have also had a lot of barge traffic and oil spills in the past, so these areas should be considered.

Large Spills First, Resource Inventory

In response to questions, Ms. O'Donnell noted that MassDEP's priority is to prepare for large spills first. She added that this would include consideration of the higher spill probability associated with high traffic areas. Ms. Commerford added that MassDEP planned to conduct a resource inventory and gap analysis to determine the adequacy of resources available in susceptible areas.

She added that one of the reasons MassDEP chose to focus on Cape Cod for this next round is because that is where the Bouchard spill occurred and there are many critical environmental areas here. Ms. O'Donnell commented that a comprehensive effort to evaluate all coastal areas is planned but that MassDEP decided to address Cape Cod first because of the obvious need. She acknowledged that these are parallel tracks and agreed that further evaluation of the other areas is necessary.

Training

Mr. Tim Rodrique, Mass. Department of Fire Services, asked how local HAZMAT teams would fit into the tiered response approach. He noted that local fire units are often called as first responders, and will send either a technical unit or an operational unit to the scene, depending on the command. He noted the need for good communication at an incident always exists and recommended that a Dept. of Fire Services mobile technical unit may be useful in linking communication between the pilot on the boat to the responders on land. Mr. Packard stated that MassDEP plans to work closely with the local firefighters and HAZMAT teams when developing training materials for the response trailers and safety equipment.

Mr. Packard confirmed that training people on how to use the equipment is included in the planned round of OSA Fund expenditures. Mr. Scott Lundgren, US Coast Guard (USCG), commented that funds should also be set aside for equipment maintenance.

Mr. Packard explained that MassDEP also plans to develop a Geographic Response Plan (GRP) for Cape Cod and the Islands. GRPs are map-based response strategies, which help responders make decisions during the first few hours of an oil spill. He stated that

Buzzards Bay already has an existing plan, and that MassDEP has hired a contractor (Nuka) to help update this plan and to further local knowledge of its purpose.

Mr. Packard explained that MassDEP plans to conduct a multi-agency spill response exercise each year. In addition, training modules will be developed for equipment familiarization and hands-on deployment training. Mr. Tucker offered that the Massachusetts Maritime Academy has an oil spill simulator already set up if MassDEP is interested in using it. Mr. Steve Lehmann, National Oceanic and Atmospheric Administration (NOAA), Office of Response and Restoration, reported that California has an Office of Oil Spill Prevention and Response (OSPER) program that is similar to MassDEP's program. California's OSPER program includes training materials, and he suggested that MassDEP use this program as a model for their own. Mr. Farmer commented that response simulation training for pilots is offered at state-of-the-art facilities in Baltimore, Florida, and Rhode Island – since Rhode Island is close, it might be beneficial to use their training programs. Ms. O'Donnell noted that the Trust Fund could be used to subsidize out of state travel for this training.

Training and Other Committees

Ms. O'Donnell observed that a sub-committee would be useful to develop policy on training priorities and funding assistance. Mr. Lehmann added that he could see a need for sub-committees on three areas: preparedness, training, and prevention. Ms. O'Donnell agreed that this seemed reasonable.

Vessel Tracking System

Mr. Farmer commented that AIS (Automated Identification System) would be the best tool for tracking vessels bringing fuel into Massachusetts. He noted that New York has made AIS a requirement for all vessels coming into state waters and suggested that MassDEP partner with the USCG and do the same. He noted that studies have shown that vessel tracking systems (VTS) do not work well in Massachusetts.

Mr. Ed LeBlanc, USCG, reported that the Coast Guard is working with MassDEP and the US ACOE on this issue and has proposed a Vessel Movement Reporting System (VMRS) for the Buzzards Bay area. Under this system, vessels required to be equipped with AIS would automatically transmit location, speed and identifying information to a monitoring center, or vessels would provide periodic voice reports of the required information. The system would allow the USCG to monitor vessel movements and know their intentions. Mr. Farmer commented that AIS is the better tool and is much more helpful in emergency situations.

Ms. Commerford reported that MassDEP had evaluated the current VTS and concluded that the system met the intent of the Act. However MassDEP would be willing to spend some of the funds for future enhancements if needed. She noted that there are many other private systems that might also work, and that MassDEP should explore all of them to find the appropriate tool. Mr. Farmer suggested that MassDEP work closely with the US ACOE to evaluate the current AIS system hosted through the US Department of Transportation (US DOT) at the Volpe Center, which has been successful. Ms.

Commerford commented that a subcommittee on VTS may be needed or that it could be addressed as a concern of a Prevention Committee.

Spending Plan

After general discussion about the need to reserve a portion of the fund for claims, Mr. Dodge commented that MassDEP's spending plan should specify a minimum reserve and include a mechanism to dispense the funds. Mr. Farmer recommended that this plan also include a strategy for redirecting funds as loans are repaid. Ms. O'Donnell commented that the amount set aside in the reserve should be based on reasonable expectations of demand. She noted that the emergency loan funding is to be used only as a last resort, after other sources are exhausted.

Mr. Lehmann recommended that MassDEP use the Rhode Island North Cape oil spill as a model for funding a "worst case scenario" incident. Mr. Bill Harkins, MassDEP, noted that the agency plans to review many case studies to help determine the worst-case scenario. Mr. Gordon Bullard, Department of Revenue, suggested that a better way to assess the amount for the reserve might be to establish the funding as a percentage of what is available, rather than as a dollar amount.

Plans for the Next Meeting

Ms. Commerford suggested that the next full meeting of the Advisory Committee be scheduled for late May or early June to allow sufficient time for MassDEP to complete more background work. She noted that MassDEP would spend time internally deciding how to structure all of the work that needs to be done. The challenge, she observed, will be to balance activities so that everyone can learn more about the issues surrounding each subject/decision area while allowing some essential activities to move forward. She also affirmed the importance of establishing sub-committees soon to focus on details of the more pressing issues, and she mentioned the training, prevention, and preparedness subcommittees that had been proposed earlier.

Mr. Packard suggested that a vessel tracking system would be a good topic to discuss at the next meeting. He also suggested that MassDEP prepare a presentation on "Spills 101" so that everyone could be familiar with basic elements of spill prevention and response. Mr. Davis suggested holding the next meeting at the US ACOE offices near the Cape Cod Canal – in order that participants can see the vessel monitoring system that is currently in place. Ms. Millie Garcia-Serrano, MassDEP, also suggested that MassDEP bring one of the spill response trailers to the meeting so that the Committee can see the equipment. Mr. Packard noted that the next round of trailer purchases is scheduled for delivery in May, so a meeting in May/June would be good timing.

Mr. LeBlanc suggested that MassDEP could also touch base with Congressman Delahunt and possibly invite him or another representative to the meeting. He noted that the Steamship Authority has petitioned NOAA for a weather buoy in Nantucket Sound and has in the past requested that Congressman Delahunt attempt to find funding for this aid to navigation. Mr. LeBlanc also mentioned that Congressman Delahunt has expressed

his support for a PORTS system in Buzzards Bay that would provide real time oceanographic data to mariners.

Ms. Commerford noted that the next meeting would be another ½ day meeting, probably in the morning, preferably located in a coastal area. She added that there is a lot of information to cover and there may be a need for more meetings at these beginning stages of the project. She and Mr. Packard will work on creating a framework and timeframes for these meetings as well as topics for future agendas. They will schedule the date and other logistical information via email.

Adjournment

Ms. Commerford thanked the Committee for their participation and adjourned the meeting.